



# CALIFORNIA HIGH-SPEED RAIL AUTHORITY

**September 11, 2012**

California High Speed Rail Authority's Organizational  
Conflict of Interest Policy

# ORGANIZATIONAL CONFLICT OF INTEREST POLICY GOALS

- Integrity, transparency, competitiveness and fairness in contracting
- Prevent unfair competitive advantage
- Provide guidance to enable informed decisions
- Protect validity of Authority Contracts and confidential/sensitive information

# DEFINITION OF ORGANIZATIONAL CONFLICT OF INTEREST

- A circumstance arising out of a contractor's existing or past activities, business or financial interests, contractual relationships or organizational structure that results in
  - Impairment or potential impairment of a Consultant's ability to render impartial assistance or advice to the Authority
  - Unfair competitive advantage for any Contractor bidding or proposing on an Authority procurement
  - A perception or appearance of impropriety with respect to any of the Authority's procurements or contracts

# ORGANIZATIONAL CONFLICT OF INTEREST DISCLOSURE

- Any Contractor having or potentially having an Organizational Conflict of interest must disclose the matter to the Authority.
- The disclosure must contain the facts and circumstances giving rise to the actual or potential conflict
- The disclosure must contain any efforts the Contractor has taken to mitigate the conflict
- The Authority reviews the matter and informs the Contractor in writing whether it has an Organizational Conflict of Interest
- A Contractor's obligation to disclose is ongoing

# FAILURE TO DISCLOSE

- Preclude or disqualify the Contractor from participation in the Authority's procurement
- Require the Contractor to implement mitigating measures
- Cancel or amend the contract under which the Contractor is performing work for the Contractor
- If the Contractor should have been aware of and failed to disclose the conflict prior to the award of the contract, terminate the contract for default.

# ORGANIZATIONAL CONFLICT OF INTEREST EXAMPLES

- No team submitting a proposal for an Authority design build contract may include any Consultant that provides or has provided procurement services for that design build contract
- No team submitting a proposal for a Project Section (EIR/EIS sections) design build contract may include any Consultant that provides or has provided professional or consulting services to the same Project Section
- Any Consultant that is responsible for preparing an EIS for a Project Section will be precluded from joining a design build team until after the Record of Decision is issued.

# **CASE BY CASE FACTORS TO CONSIDER IN GRANTING PERMISSION TO PARTICIPATE OR CONTINUE TO PARTICIPATE IN A PROCUREMENT**

- Whether the Contractor has information that will need to be made public or disclosed to other participants in the procurement that may give an unfair advantage to the Contractor
- Whether the relationship involves other branch offices or a parent company and the degree of separation of work teams
- Consideration of the expertise required to undertake the subject work and availability of qualified and skilled Contractors
- Consideration of professional governing body rules like those established by the California Board of Professional Engineers.

# CONTRACT COMPATIBILITY MATRIX EXAMPLE

		Can you have a contract here...													
		PMT	PMO	HSR - Personal Services	Same Segment ROW	Same Segment CM	Same Segment D/B	Same Segment GC	Other Segment ROW	Other Segment CM	Other Segment D/B	Other Segment GC	On Call ROW	Property Management	Multi-Segment Systems
PMT - Prime		OK	No	N/A	No	No	No	No	No	No	No	No	No	No	No
PMT - ROW Sub		OK	No	N/A	No	No	No	No	No	No	No	No	No	No	No
PMT - 2nd Tier Sub		OK	No	N/A	N/A	?	?	?	?	?	?	?	No	OK	?
PMT - SBE Sub		OK	No	N/A	N/A	?	?	?	?	?	?	?	No	OK	?
PMT - Personal Services		OK	?	OK	OK	OK	?	?	OK	?	?	?	No	OK	?
If you have a contract here...		OK	Probably no conflict					?	Depends-Check First						
		NO	Definitely no conflict					N/A	Not Applicable						

# QUESTIONS????